

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FLOYD’S OF LEADVILLE, INC.,
N/K/A VALUED, INC.,

Plaintiff,

vs.

ALEXANDER CAPITAL, L.P., NESA
MANAGEMENT, LLC, JOSEPH ANTHONY
AMATO, ROCCO GERARD GUIDICIPIETRO,
JONATHAN GAZDAK, RONALD BARRIE
CLAPHAM, MARK LEONARD, PROVISION
HOLDING, INC., TIMOTHY KELLY, and
THREE DDD, LLC,

Defendants.

Case No.: 1:22-cv-03318-DEH

JOINT MOTION TO EXTEND DISCOVERY PERIOD

COME NOW Plaintiff Floyd’s of Leadville, Inc., n/k/a Valued, Inc., (“Plaintiff” or “FOL”) and Defendants Alexander Capital, L.P., NESA Management, LLC, Joseph Anthony Amato, Rocco Guidicipietro, and Jonathan Gazak (“ACLP Defendants”), and Defendants Ronald Barrie Clapham and Mark Leonard, through undersigned counsel, and move to extend the period for fact discovery from July 19, 2024 to October 18, 2024, as well as all subsequent deadlines for expert discovery by ninety (90) days.

1. On January 9, 2024, the Court entered a Scheduling Order setting the deadline for completion of fact discovery on July 19, 2024. *See* Dkt. 160.

2. Plaintiff and the ACLP Defendants have diligently pursued fact discovery.

3. The ACLP Defendants served their Second Request for Production of Documents to Plaintiff on January 29, 2024. After the ACLP Defendants consented to Plaintiff’s request for an

extension of time to respond to the document requests, Plaintiff served its Responses to ACLP's Second Request for Production of Documents on April 18, 2024.

4. The ACLP Defendants served their Requests for Admission to Plaintiff on March 14, 2024, and Plaintiff served its Responses on April 15, 2024.

5. Plaintiff served its First Set of Interrogatories on ACLP on January 30, 2024. After Plaintiff granted ACLP a two-week extension for its interrogatory responses, ACLP served its Responses on March 14, 2024.

6. Plaintiff served its Requests for Admission to ACLP on March 15, 2024 and ACLP served its Responses on April 15, 2024.

7. Plaintiff also served discovery requests on Defendants Leonard and Clapham and filed a Motion to Compel on May 10, 2024.

8. As set forth in the Unopposed Motion for Order to Compel Production of All Deposition Transcripts from the Related Colorado Action, filed on April 16, 2024, to streamline discovery, Counsel for Plaintiff and the ACLP Defendants have agreed that the depositions of relevant witnesses taken in the related Colorado Action may be used in this case. The ACLP Defendants do not yet know the extent to which the testimony of those parties and witnesses is sufficient to address the particular issues in this case.

9. The ACLP Defendants made an informal request that Plaintiff provide copies of the transcripts by January 23, 2024. Plaintiff then asked for a formal document production request, and ACLP Defendants served their request to Plaintiff for production of the deposition transcripts from the Colorado Action on January 29, 2024. Because of a Stipulated Confidentiality Order entered by the court in the Colorado Action, Plaintiff would not agree to produce the deposition

transcripts without an Order from this Court.

10. The Court granted the Motion to Compel Production of the Deposition Transcripts on May 1, 2024, and Plaintiff produced the transcripts on May 10, 2024. Plaintiff produced deposition transcripts for eleven witnesses totaling 3,170 pages of testimony.¹ The ACLP Defendants have not yet had time to review the transcripts or the corresponding 282 deposition exhibits. As a result, the ACLP Defendants need additional time to review the transcripts to determine whether it will be necessary to re-depose these witnesses regarding the particular claims and defenses asserted in this case that were not addressed in connection with the Colorado Action.

11. Plaintiff and Defendants have recently begun discussing the scheduling of depositions of the parties and witnesses. Several of the counsel and party-witnesses have limited availability in the two months remaining in the current fact discovery period. It is therefore not possible to complete the depositions of the parties and the non-party material witnesses within the schedule set by the Court.

Accordingly, for good cause shown, the Parties respectfully request an extension of the period for fact discovery from July 19, 2024 to October 18, 2024, as well as all subsequent deadlines for expert discovery by ninety (90) days.

¹ The transcript of a twelfth witness, Carmen Foley, was not produced.

Respectfully submitted, this 22nd day of May 2024.

/s/ Bryan Ward

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